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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/397,494	09/15/1999	DAVID J. BALABAN	18547-037510	8817
33494	7590	12/23/2005	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW LLP TWO EMBARCADERO CENTER 8TH FLOOR SAN FRANCISCO, CA 94111-3834			ART UNIT	PAPER NUMBER

DATE MAILED: 12/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Notification of Non-Compliant Appeal Brief (37 CFR 41.37)</b>	<b>Application No.</b> 09/397,494	<b>Applicant(s)</b> BALABAN ET AL.	
	<b>Examiner</b> Jeffrey R. West	<b>Art Unit</b> 2857	


**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 05 December 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.  
**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☐ Other (including any explanation in support of the above items):

See Continuation Sheet.

  
 MARC S. HOFF  
 SUPERVISORY EXAMINER  
 TECHNOLOGY CENTER

Continuation of 5:

Appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The following change should be made:

Group I: Claims 47 and 48 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over McCasky Feazel et al. '030 in view of Layne et al. '731 and Wong et al. '859 and further in view of Lipshutz '729.

Continuation of 6:

The argument for groups "F" and "H" present a single heading for more than one ground of rejection on appeal.

The heading for group "H" indicates "Claims 47 and 48 are not properly rejected under 35 U.S.C. § 103(a) as being unpatentable over McCasky Feazel et al. '030 in view of Layne et al. '731 and further in view of either Lipshutz '729 or Wong et al. '859 and further in view of Wheeless Jr. et al. '537" while claims 47 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCasky Feazel et al. in view of Layne et al. and Wong and further in view of Lipshutz et al. and as being unpatentable over McCasky Feazel et al. in view of Layne et al. and Wong and further in view of Wheeless, Jr. et al.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO. <span style="float: right;">H.A</span>
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EXAMINER
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20051221

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